

§ 20.401

move to dismiss a petition, or any party may lodge a request for relief, for failure of another party to—

- (1) Comply with the requirements of this part or with any order of the ALJ;
 - (2) Show a right to relief based upon the facts or law; or
 - (3) Prosecute the proceeding.
- (e) A dismissal resides within the discretion of the ALJ.

Subpart D—Proceedings

§ 20.401 Initiation of administrative proceedings.

An administrative proceeding commences when the Coast Guard representative files the complaint with the Hearing Docket Clerk and serves a copy of it on the respondent.

§ 20.402 Public notice.

Upon the filing of a complaint under 33 U.S.C. 1321(b) (6), the Coast Guard provides public notice of a class II civil penalty proceeding. The notice appears in the FEDERAL REGISTER.

§ 20.403 Consolidation and severance.

(a) A presiding ALJ may for good cause, with the approval of the Chief ALJ and with all parties given notice and opportunity to object, consolidate any matters at issue in two or more administrative proceedings docketed under this part. (Good cause includes the proceedings' possessing common parties, questions of fact, and issues of law and presenting the likelihood that consolidation would expedite the proceedings and serve the interests of justice.) The ALJ may not consolidate any matters if consolidation would prejudice any rights available under this part or impair the right of any party to place any matters at issue.

(b) Unless directed otherwise by the Chief ALJ, a presiding ALJ may, either in response to a motion or on his or her own motion, for good cause, sever any administrative proceeding with respect to some or all parties, claims, and issues.

§ 20.404 Interested persons.

(a) Any person not a party to a class II civil penalty proceeding under 33 U.S.C. 1321(b)(6) who wishes to be an interested person in the proceeding shall,

33 CFR Ch. I (7–1–99 Edition)

30 days or less after publication in the FEDERAL REGISTER of the public notice required by § 20.402, file with the Hearing Docket Clerk either—

- (1) Written comments on the proceeding; or
- (2) Written notice of intent to present evidence at any hearing in the proceeding.

(b) The presiding ALJ may, for good cause, accept late comments or late notice of intent to present evidence.

(c) Each interested person shall receive notice of any hearing due in the proceeding and of the decision in the proceeding. He or she may have a reasonable opportunity to be heard and to present evidence in any hearing.

(d) The opportunity secured by paragraph (c) of this section does not extend to—

- (1) The issuance of subpoenas for witnesses;
- (2) The cross-examination of witnesses; or
- (3) Appearance at any settlement conference.

Subpart E—Conferences and Settlements

§ 20.501 Conferences.

(a) Any party may by motion request a conference.

(b) The ALJ may direct the parties to attend one or more conferences before or during a hearing.

(c) The ALJ may invite interested persons to attend a conference, other than a settlement conference, as the ALJ deems appropriate.

(d) The ALJ shall give reasonable notice of the time and place of any conference to the parties, and to interested persons if invited. A conference may occur in person, by telephone, or by other appropriate means.

(e) Each party, and any interested person invited, shall be fully prepared for a useful discussion of all issues properly before the conference, both procedural and substantive, and be authorized to commit themselves or those they represent respecting those issues.

(f) Unless the ALJ excuses a party, the failure of a party to attend or participate in a conference, after being served with reasonable notice of its